

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27-03-2019

CORAM

THE HONOURABLE Mr. JUSTICE S.M.SUBRAMANIAM

W.P.Nos. 9072 & 9075 of 2019

K.K.Chandran ... Petitioner in W.P.No.9072 of 2019

J.Anita ... Petitioner in W.P.No.9075 of 2019

Vs

1. The Chairman
Teacher Recruitment Board,
College Road,
Chennai - 600 006.
2. The Director of School Education,
College Road,
Chennai - 600 006.
3. The Director of Government Examination,
College Road,
Chennai - 600 006. ... Respondents in both W.Ps

PRAYER in W.P.No.9072 of 2019: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus to direct the first respondent to appoint the petitioner as Drawing Teacher (Special Teacher) based on the marks secured by them and as per Rule 10 of the Notification No.5/2017 dated 26.07.2017 by considering the representation dated 13.08.2018.

PRAYER in W.P.No.9075 of 2019: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus to direct the first respondent to appoint the petitioner as Drawing Teacher (Special Teacher) based on the marks secured by them and as per Rule 10 of the Notification No.5/2017 dated 26.07.2017 by considering the representation dated 27.10.2018.

For Petitioners : Mr.P.Ganesan
in both W.Ps

For Respondents : Mr.C.Munusamy
in both W.Ps Special Government Pleader for R1
Mr.A.Rajaperumal
Additional Govt Pleader for R2 & R3

C O M M O N O R D E R

The relief as such sought for in these writ petitions are to direct the respondents to select the writ petitioners as Drawing Teacher in the quota reserved for candidates, who studied in Tamil Medium, based on the marks secured by the respective writ petitioners in the process of selection and as per the Rule of Reservation and quotas allotted.

2. The writ petitioners have admittedly passed their respective SSLC Course and the Higher Secondary Course (+ 2 Course). The petitioners have passed the Technical Examination Higher Grade in Free Hand Out line Model Drawing. Accordingly, the writ petitioners are eligible and qualified for appointment to the post of Special Teacher for Drawing.

3. The grievances in short addressed by the writ petitioners before this Court is that they had submitted their respective online applications, pursuant to the recruitment notification issued by the Teachers Recruitment Board on 26.07.2018. The online application provides separate column in respect of the qualifications acquired by the respective candidates. As far as the medium of instruction is concerned, the same is provided against the column meant for SSLC and HSC / Equivalent. However, there is no separate column provided in respect of the qualifications of Technical Education. In other words, there is no column indicating the medium of instruction is provided in respect of the qualifications prescribed for recruitment to the post of Special Teacher for Drawing as well as Sewing and Needle Works.

4. The learned counsel appearing on behalf of the writ petitioners states that the writ petitioners had undergone courses in Drawing, by writing examinations in Tamil Medium. This apart, the writ petitioners had indicated in the online application that they had studied in Tamil Medium and therefore, entitled to avail the quota prescribed for the persons studied in Tamil Medium (20% quota). However, the writ petitioners had not produced the certificates in respect of the Higher Grade Technical Examinations showing that they had undergone the Course in Tamil Medium.

5. The learned counsel for the writ petitioners solicited the attention of this Court that no such certificate was issued to the writ petitioners at the time of passing of Technical Examination nor the medium of instructions are indicated in the certificate issued by the Director of Government Examinations. Under these circumstances, the petitioners had submitted their respective applications before the Director of Government Examinations to issue certificate in respect of the medium of instructions for the courses of Drawing as well as Sewing and Needle Works. The Director of Government Examinations issued a reply letter by stating that the "this department is conducting Technical Examinations to private candidates only, for Government Technical Examination. No training is conducted by this Department. Hence, required certificate is unable to issued to the candidate".

6. The position is confirmed by the learned Additional Advocate General by stating that no such certificate was issued by the Director of Government Examinations, as the same are unable to be issued, for want of records.

7. The peculiar circumstances now arises that though the writ petitioners had undergone the Higher Grade Examinations in Drawing through Tamil Medium, they are not in a position to get certificate from the Director of Government Examinations. Thus, they have stated in their online application that they had opted Tamil Medium for undergoing the Higher Grade Examinations. This apart, during the certificate verification process also, all the writ petitioners have stated that they have studied in Tamil Medium and they are entitled to avail the quota allotted for persons studied in Tamil Medium.

8. The next question arises is, whether the writ petitioners can produce the certificate, if any granted by the private institutes which all are conducting Drawing courses or Sewing and Needle courses. Most of the writ petitioners have studied or underwent training in Private Institutions long back. Thus, the Private Institutions may not be in a position to issue such certificates or would have been closed by this time. This apart, such Private certificates, if at all issued by unrecognised private institutes, the same cannot be trusted upon, as the same will create doubts as far as the genuinity is concerned. The Private Institute, if issued any certificate and such certificates are taken for the purpose of providing public employment, the said procedure

cannot be accepted, in view of the fact that there is a possibility of tampering of issuance and production of false certificates. This apart, if the Higher Grade Examinations are

undertaken by the private candidates even without undergoing any training in any of the institutes, there is a possibility of issuance of certificates, such circumstances are also possible. The course being technical one and the certificate course. Any person who has the knowledge of Drawing or Sewing and Needle works can participate in the lower or higher grade examinations. Under these circumstances, the private candidates may not be in a position to get such certificates from the Private Institutes. If such candidates are produced such certificates necessarily, they have to obtain certificates from the private institutes by paying some amount or by getting false certificates. Therefore, such a scheme, if approved, will create lot of anomalies and will lead to corrupt practices and therefore, it cannot be approved. In the event of producing such certificates to be issued by the Private Institutes for the purpose of considering the candidates under the quota allotted for the persons studied in Tamil Medium, it will lead to corrupt practices. Thus, the said procedure now contended by the respondents cannot be the best one or full proof.

9. Under these circumstances, a pragmatic approach is to be adopted for the purpose of balancing the issues as well as in the matter of extending the quota for the persons who studied in Tamil Medium.

10. Admittedly, the writ petitioners have submitted the online applications stating that they are eligible to avail the quota allotted for the persons studied in Tamil Medium. Even during the certificate verification, they have stated that they have studied in Tamil Medium. As far as the application form is concerned, the medium of instruction is provided only against the column provided for SSLC and HSC/Equivalent. As far as the Technical Education column is concerned, no medium of instruction is provided. Thus, the respondent cannot now direct the candidates to secure the certificate from the Director of Government Examinations, who in turn refused to give such certificates, on account of the fact that those options are not available with the office of the Director of Examinations.

11. Under these circumstances, this Court is of an opinion that as per the online application, the Authorities Competent are bound to verify the medium of instructions in respect of SSLC and HSC / Equivalent. As far as the Technical qualification of Higher Grade Examinations are concerned, the candidates can be considered based on their declaration and based on the certificate verification done by the Competent Authorities at the time of the selection process. However, such undertaking and the statement given by the candidates during the certificate verification process can be verified and scrutinized by the

Competent Authorities with the Director of Government Examinations or with any other authorities, if necessary.

12. It is made clear that in the certificate verification form, if any candidate has not opted the medium of instructions, such candidates are not eligible to avail the quota allotted for the persons studied in Tamil Medium. If any of the candidate have not stated that he has studied in Tamil Medium, then such candidates are not eligible for the quota as the persons studied in Tamil Medium. In respect of all other candidates who have opted the Tamil quota both in the online application as well as in the certificate verification process in the prescribed format, those candidates can be considered in the PSTM quota and accordingly, the respondents are directed to consider all the cases of the writ petitioners by verifying the online application as well as in certificate verification in the prescribed format and thereafter, redraw the selection list by providing the quota allotted to the persons studied in Tamil Medium and thereafter, finalize the selection list and appoint the candidates, by following the procedures.

13. Accordingly, all these writ petitions stand allowed. No costs.

Sd/-
Assistant Registrar(CS-VI)

//True copy//

Sub Assistant Registrar

ssb/kmm

To

1. The Chairman
Teacher Recruitment Board,
College Road, Chennai - 600 006.
2. The Director of School Education,
College Road, Chennai - 600 006.
3. The Director of Government Examination,
College Road, Chennai - 600 006.

+1cc to Government Pleader SR.No.29804

W.P.Nos. 9072 & 9075 of 2019

CP(CO)
GMY(19/06/2019)